IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22123 of 2004

Between:

1 Anil Kumar Srivastav, S/o. Late Dr. Jagadish Pershad,
R/o. H.NO. 23-6-983/2, Shah Ali Banda, Hyderabad.
2 Sunil Kumar Srivastav, S/o. Late Dr. Jagadish Pershad,
R/o. H.NO. 23-6-983/2, Shah Ali Banda, Hyderabad.
3 Smt. Shoba Rani Srivastava, W/o.Anil Kumar Srivastava,
R/o. H.NO. 23-6-983/2, Shah Ali Banda, Hyderabad.

..... PETITIONERS

AND

1 The Inspector of Police, Moghalpura Police Station,
Division Mir Chowk, South Zone, Hyderabad.
2 Yousuf Ba-Ramzan, S/o. Abudl Khader,
R/o. 18-7-981/A/297/A, Murad Mahal, Talab Katta,
Hyderabad.
3 Mirza Smail Baig, S/o.Late Mahboob Baig,
R/o. 20-4-973/11, Khanabad Chowk, Hyderabad.
4 Akram Basha, S/o. Late R/o. 23-6-985 & 23-5-993,
Shalibanda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ one in the nature of writ of mandamus to call for the records and to quash the F.I.R.NO. 166 of 2004 dt. 21-11-2004 of P.S. Moghalpura, Hyderbad by declaring the same as arbitrary, illegal, unconstitutional, biased, without jurisdiction and violative of principles of nature justice.

Counsel for the Petitioner: MR.GADEVENKATESWARA RAO

Counsel for Respondent No.1: GP FOR HOME

Counsel for Respondents 2 to 4: Mr.Murlinarayan Bung

The Court at the stage of admission made the following ORDER:

This writ petition is filed for the relief of quashing the F.I.R.No.166 of 2004 dated 21-11-2004 on the file of P.S. Moghalpura, the first respondent herein.

In the affidavit filed in support of the writ petition, reference is made to the dispute in relation to the property bearing No.23-6-993 and 985 of Shah Ali Banda, Hyderabad. It is alleged that the petitioners are the absolute owners of the property and that they also filed O.S.No.405 of 2004 on the file of the Chief Judge, City Civil Court, Hyderabad and obtained an order of temporary injunction in I.A.No.3667 of 2004. The petitioners allege that respondents 2 to 4 have submitted a complaint to the first respondent, though the matter is pending adjudication before a Civil Court. According to them the F.I.R. cannot be sustained in law and the same deserves to be quashed.

On behalf of respondents 2 to 4, a counter-affidavit as well as an application to vacate the interim order is filed. They narrated in detail the nature of dispute in relation to the property and state that they were not impleaded as defendants in O.S.No.405 of 2004 and it is only after submission of their complaint and registration of the F.I.R., the petitioners have filed O.S.No.6884 of 2004 on the file of the XIX Junior Civil Judge, Hyderabad and no interim orders have been passed in that suit as yet.

Heard learned counsel for the petitioner, learned Government Pleader for Home for the first respondent and learned counsel for respondents 2 to 4.

A perusal of the record placed before this Court in this writ petition discloses that civil proceedings are pending between the petitioners on the one hand and respondents 2 to 4 on the other, apart from certain other persons in relation to the same property. The parties are required to act in accordance with the orders that are passed by the Civil Courts from time to time. The necessity for the police authorities to interfere in such matters would arise if only any law and order problem is created, that too, in contravention of the orders passed by the civil Courts. Any step taken by the parties or police has to be in conformity with the orders of the civil Courts. It is too difficult for this Court, at this stage, to record any findings as to the respective entitlements of the parties against the property.

Hence, the writ petition is disposed of directing that:

a. the petitioners on the one hand and the respondents 2 to 4 on the other shall abide by the orders passed by the civil Court from time to time.

b. the first respondent shall take into account various suits pending between the parties before taking any steps in the process of investigation into the F.I.R. and shall not take any steps which are contrary to the orders that are passed by the civil Court in the pending suits.

(c) No order as to costs.

23-12-2004

kdl

To

1. The Inspector of Police, Moghalpura Police Station, Division Mir Chowk, South Zone, Hyderabad.

2. Two C.Cs. to the Government Pleader for Home, High Court Buildings, A.P., Hyderabad, (OUT).

3. Two C.D. Copies.